

1 **FOREST PRACTICES BOARD**  
2 **Regular Board Meeting – May 12, 2021**  
3 via Zoom

4 *Meeting materials and subject presentations are available on Forest Practices Board's website.*  
5 <https://www.dnr.wa.gov/about/boards-and-councils/forest-practices-board>  
6

7 **Members Present**

8 Stephen Bernath, Chair, Department of Natural Resources  
9 Ben Serr, Designee for Director, Department of Commerce  
10 Bob Guenther, General Public Member/Small Forest Landowner  
11 Brent Davies, General Public Member  
12 Carmen Smith, General Public Member/Independent Logging Contractor  
13 Dave Herrera, General Public Member  
14 Jeff Davis, Designee for Director, Department of Fish and Wildlife  
15 Kelly McLain, Designee for Director, Department of Agriculture  
16 Rich Doenges, Department of Ecology  
17 Tom Nelson, General Public Member  
18

19 **Absent:**

20 Cody Desautel, General Public Member  
21 Vicki Raines, Elected County Commissioner  
22 Wayne Thompson, Timber Product Union Member  
23

24 **Staff**

25 Joe Shramek, Forest Practices Division Manager  
26 Mary McDonald, Forest Practices Assistant Division Manager  
27 Marc Engel, Senior Policy Advisor  
28 Patricia Anderson, Rules Coordinator  
29 Phil Ferester, Senior Counsel  
30

31 **WELCOME AND INTRODUCTIONS**

32 Chair Bernath called the Forest Practices Board (Board) meeting to order at 9:10 a.m. Roll call of  
33 Board members and introduction of staff was made.  
34

35 **ZOOM MEETING INSTRUCTIONS**

36 Marc Ratcliff, DNR, provided instructions on how the Zoom meeting would be conducted and how to  
37 provide public comment.  
38

39 **REPORT FROM CHAIR**

40 Chair Bernath shared the following information:

- 41 • The Forest Practices program's operating funding for 2021-23 biennium has been restored to  
42 carry forward levels from two years ago.
- 43 • The Small Forest Landowner Office received an additional \$2 million per biennium. The intent  
44 is to use the additional monies for regulatory assistance foresters in DNR Regions.
- 45 • Funding was provided to partially fund FPOne; update Board Manual Section 12 (guidance  
46 for the application of forest chemicals); expand the Compliance Monitoring Program's efforts  
47 to include aerial application of herbicides; and for the development of a northern spotted owl  
48 (NSO) programmatic safe harbor agreement.

- 1 • Capital programs received increases for the first time since the 2009 recession:
  - 2 ○ Family Forest and Fish Passage Program (FFFPP) funded at just under \$10 million
  - 3 ○ Forest Riparian Easement Program (FREP) received approximately \$6 million
  - 4 ○ Rivers, Habitat and Open Space Program (RHOSP) received about \$1.4 million
- 5 • DNR is responsible for several new legislative reports over the next two years, with the first
- 6 one due December 1, 2021.
- 7 • DNR region staff met with Ms. Ellie Belew to understand and discuss the concerns about
- 8 implementation of a Long-Term Forest Practices Application (FPA) held by the city of Roslyn.
- 9 The issue associated with the FPA is being addressed.
- 10 • Washington Farm Forestry Association (WFFA) requested that Jenny Knoth, an existing
- 11 Cooperative Monitoring, Evaluation, and Research Committee (CMER) voting member, be
- 12 formally acknowledged as a voting member affiliated with the small forest landowner caucus.
- 13 She does not need to be approved since the only change is her affiliation.
- 14 • Effective May 6, 2021, Cody Desautel of the Colville Consolidated Tribes was appointed by
- 15 the governor to fill the vacancy left by Paula Swedeen; Wayne Thompson has been appointed
- 16 to fill the vacancy left by Noel Willet. In addition, the Governor reappointed Dave Herrera.
- 17 • The Center for Conservation Peace Building (CPeace) process was delayed in part due to the
- 18 pandemic and last year’s wildfire season. Work is underway to set the foundation for
- 19 reinvigorating Timber, Fish and Wildlife (TFW) and Francine Madden is working through
- 20 conditions that are necessary to convene the principals.

21  
22 **APPROVAL OF MINUTES**

23 **MOTION:** Kelly McLain moved the Forest Practices Board approve the February 10, 2021 Board

24 meeting minutes.

25  
26 **SECONDED** Tom Nelson

27  
28 Board Discussion:

29 None.

30  
31 **ACTION:** Motion passed (9 Support / 1 Abstention (Guenther)).

32

33 **CENTER FOR CONSERVATION PEACE BUILDING (CPeace)**

34 Francine Madden, Executive Director for CPeace, said the TFW principal’s process has been on a

35 holding pattern for some time and acknowledged this has tested many folks patience. She is unable to

36 say when or if the process will resume due to the lack of a mandate permission and multiple conditions

37 that would enable a process to go forward – they are not in place yet. In the meantime, she said she has

38 been doing some same-side caucus meetings and facilitating Capacity Building and Conflict

39 Transformation Workshops with Adaptive Management Program (AMP) and DNR staff similar to

40 what some of the principals did in 2019.

41  
42 Board member Davies ask if there are opportunities for Board members to attend capacity-building

43 workshops.

44  
45 Madden said she is willing to have additional workshops if there is a critical mass to do so, but

46 mandate permission would need to occur first.

47

1 Chair Bernath said if there is a group of Board members or principals who would like to have that  
2 opportunity to let him know and he would work to make that happen.

3  
4 Board member Doenges acknowledge the expectations put of the CPeace process and asked what  
5 Francine’s realistic expectations are for the CPeace process and if it does not occur, should they  
6 consider other options.

7  
8 Madden said leadership needs to figure out soon whether this is a go or no-go – initiating the next steps  
9 is out of her hands. She said she has concerns with the high level of expectations. She said if she does  
10 not have all the elements and support to help make the conflict transformation process work, then  
11 expectations should be lowered.

12  
13 **ADAPTIVE MANAGEMENT PROGRAM STATE AUDITOR OFFICE (SAO)**  
14 **PERFORMANCE AUDIT WORK PLAN**

15 Mark Hicks, Adaptive Management Program Administrator (AMPA) reported on the status of 13  
16 recommendations for improving program performance identified in the State Auditor’s Office (SAO)  
17 performance audit on the AMP. In February 2021, the Board directed staff to provide suggestions for  
18 addressing the SAO recommendations to include relative priorities for the recommendations within the  
19 Board’s authority and assess needed resources to make and sustain the identified changes.

20  
21 Hicks said DNR staff is seeking the Board’s acceptance of a recommended suite of actions, which  
22 include:

- 23 • Acceptance of the relative priorities and timelines for the SAO recommendations;
- 24 • Direction to the AMPA, Policy co-chairs and CMER members to conduct the work and strive  
25 to meet the timelines described in the appendix for SAO Recommendations #4, #5 and #6;
- 26 • For DNR to submit a decision package to Office of Financial Management in advance of the  
27 2022 legislative session seeking funding to accelerate the work including accomplishment of  
28 (1) the next fiscal and performance audits (SAO Recommendation #9), and (2) the five-year  
29 review of the science program (SAO Recommendation #7);
- 30 • Direct the AMPA to provide status reports to the Board at six-month intervals.

31  
32 Referring to the table in the [SAO Response Plan dated May 5, 2021](#) Hicks said the staff  
33 recommendations are separated into three groups based on which entity would accomplish the work.  
34 Many of the recommendations represent new work that cannot be accomplished swiftly within the  
35 limits of existing system capacity and established Board priorities. He said the staff recommendations  
36 are ranked based on the perceived level of urgency, the potential benefit to be gained, the degree of  
37 complexity, and the availability of existing resources that could be assigned. Work that can be  
38 accomplished relatively quickly with existing resources was ranked higher than work needing  
39 considerable input by staff and others.

40  
41 Staff recommendation set 1

- 42 • Includes SAO recommendations #1 (review decision-making model) and #2 (participation of  
43 caucus principals).
- 44 • These are directed toward caucus principals and those efforts will benefit from the existing, on-  
45 going engagement with the CPeace.

1 Staff recommendation set 2

- 2 • Actions to be assigned to the AMP committees, and brought to the Board as recommendations,  
3 and include SAO recommendations #5 (net gains model), and #6 (decision criteria).  
4 • Supplemental funding is not identified for these tasks, but it is possible that targeted financial  
5 assistance on both technical matters will be necessary.

6 Staff recommendation set 3

- 7 • Actions that are administrative in nature and which can be developed primarily by DNR staff as  
8 workload and opportunities allow.  
9 • Includes parts or all of SAO recommendations #3 (dispute resolution), #4 (dispute resolution  
10 triggers), #7 (5 year review of science program), #8 (on-boarding/training new members), #9  
11 (procedures for performance audits), #10 (tracking lifecycle of projects) and #11 (public facing  
12 dashboard).

13  
14 Board member Nelson asked if the AMP has enough money and the time under current staffing levels  
15 to complete the work, and if the Board needs to prioritize the recommendations.

16  
17 Hicks said no, and that is the reason funding estimates are built into the priorities.

18  
19 Board member Doenges said he appreciates the first priority being the CPeace process and hopes that it  
20 will be resolved soon. He asked if the plan actually intends to meet deadlines for recommendations #4,  
21 #5, and #6.

22  
23 Hicks said the deadlines are general in nature and there is no intent to suggest that the AMP is not  
24 going to meet the timelines. He said recommendations #1 and #2 focused on caucus principals because  
25 the outcome of that process will feed into the success of completing the recommendations further  
26 down the list.

27  
28 Board member Serr asked if the \$600,000 for the caucus principal's involvement is built into the  
29 revised Master Project Schedule (MPS) budget.

30  
31 Hicks said the full amount of funds to support CPeace is not currently shown in the MPS. He clarified  
32 that \$44,000 was added to the MPS budget for mediation of disputes.

33  
34 Chair Bernath said DNR is covering the cost of Francine Madden's work is funded outside the Forest  
35 Practices budget. DNR had hoped the legislature would do so, but as of the end of the legislative  
36 session, they have not decided to fund CPeace.

37  
38 **PUBLIC COMMENT ON SAO PERFORMANCE AUDIT WORK PLAN**

39 Ken Miller, WFFA, said the work plan is well developed and said WFFA leadership appreciates the  
40 benefits of a well-functioning AMP. Despite being exasperatingly slow, it seems better than other  
41 options and powerful when folks agree. He said folks only seem to support the science that agrees with  
42 their pre-conceived notions and often, the science processes is mixed with political influences. He said  
43 that until the 1999 RCW regulatory deference requirements for relatively low-impact prescriptions for  
44 small forest landowners are fully realized, they will continue to feel like second-class citizens. He said  
45 they would like all four goals of Forests and Fish prioritized equally, dispute resolution used more  
46 frequently and suggested that work like CPeace and process audits could help.

1 Steve Barnowe-Meyer, WFFA, said that more input from other AMP participants will be critically  
2 important to making the proposed work plan operable, but WFFA is generally supportive of the  
3 prioritizes and timelines presented. He said WFFA is committed to ensuring successful continuation of  
4 an effective AMP through continuous improvement, accountability and transparency. This will only  
5 happen if all AMP participants genuinely commit to the sustained time, focus and effort to prioritize  
6 work on the recommendations and securing appropriate MPS funding from the Board and legislature.  
7

8 Ray Entz, Upper Columbia United Tribes (UCUT), said the Eastside tribes believe the SAO report was  
9 accurate and laid out some concepts to move forward on. He reminded the Board that the Kalispel  
10 Tribe and the Eastside tribal governments' perspectives on Policy has been shared in the past through  
11 letters to Board members and the AMPA. He said they appreciate the AMPA's attempts to prioritize  
12 and move the recommendations forward, but said it should not be a shock to any Board members that  
13 the Eastside tribes believe it is not enough. He said accountability for all Policy representatives and  
14 said Board members should refer back to their letters to look at additional ways to build accountability  
15 into this program beyond the recommendations from the SAO audit report.  
16

17 Darin Cramer, Washington Forest Protection Association (WFPA), said he is cautiously supportive of  
18 the work plan, and said WFPA has provided prior written and verbal feedback about the audit. He said  
19 they have some concerns about the depth of the SAO report, but are supportive of moving forward as  
20 proposed. There are details that need to be worked out by Board staff and said he hopes the rest of the  
21 AMP participants are involved in that. He said there are high expectations placed on the CPeace  
22 process and hopes that those expectations are realistic. He said everyone needs to work toward  
23 problem solving and not just assume Francie Madden can solve the AMP issues.  
24

#### 25 **ADAPTIVE MANAGEMENT PROGRAM SAO PERFORMANCE AUDIT WORK PLAN**

26 **MOTION:** Motion: Tom Nelson moved the Forest Practices Board approve the staff recommended  
27 State Auditor's Office Response Plan and direct the AMPA, committee co-chairs and  
28 Adaptive Management Program staff to initiate work to complete work within identified  
29 timelines. Nelson also moved to ask DNR to initiate a decision package in the  
30 supplemental budget process to support work outlined in the staff's recommendations.  
31

32 **SECONDED:** Bob Guenther

33  
34 Discussion:

35 Chair Bernath suggested a friendly amendment to add the task of initiating a decision package. Board  
36 member Guenther said he was concerned where the money would come from and is supportive of the  
37 friendly amendment.  
38

39 **ACTION:** Motion passed unanimously.  
40

#### 41 **2021-2023 MASTER PROJECT SCHEDULE AND CMER WORK PLAN**

42 Chair Bernath said the Board approved the MPS in August 2020 as part of the AMP funding request  
43 for the 21-23 biennium.  
44

45 Mark Hicks, AMPA, said the [updated MPS spreadsheet](#) sent to Board members on the day of the  
46 meeting includes the legislative approval and funding for WFFA and the county caucus participation in  
47 the AMP. Policy approved the MPS at their April 2020 meeting, but the eastern Washington tribes  
48 voted against the budget based on concerns with three studies. He said the request today is for the

1 Board’s support for the MPS and its associated revised budget for the 21-23 biennium. The summary  
2 of the budget includes:

- 3 • The program is projected to close out the current biennium with \$50,000 unspent project funds;
- 4 • The legislature has approved a 21-23 biennium budget of \$16.3 million for the AMP. This amount  
5 satisfies the funding request agreed to by the Board in August 2020 and includes a one-time  
6 general fund proviso of \$268,000 to increase participation funds for WFFA and the county caucus.

7 Changes to the MPS and the associated budget since the August 2020 meeting are:

- 8 • No new projects have been added or removed from the MPS, and the projected cost of research  
9 projects increased by less than \$20,000.
- 10 • A new line item (line 20) provides \$45,000 to help hire a mediator to help resolve disputes.
- 11 • The contingency fund is about \$50,000 (line 14). This is because it is used to balance the budget  
12 (line 83) and so the normal \$100,000 per biennium for contingencies was reduced to keep the  
13 biennium in balance.
- 14 • The AMP expects to use all of the allotted project funds.

15  
16 Hicks highlighted the revenue sections of the budget and noted that it showed each of the funding  
17 sources approved by the legislature. He also noted the revenue sources again included funds from the  
18 Model Toxics Control Account, along with state general fund monies for both research and increased  
19 participation grants.

20  
21 Board member Doenges, referring to line 18, asked why there was a lack of funds for the Type N work  
22 group and why there are a number of projects, which do not have any associated costs.

23  
24 Hicks said Type N work does not show any costs because they do not foresee additional funding  
25 needed in the next fiscal year. The zeros in the worksheet indicate work being done internally. He also  
26 pointed out that while the water typing studies remain a priority for the Board, the MPS shows no  
27 associated funds, but to fully fund these studies would cost about \$900,000 per year for four years.  
28 Putting these studies in the budget would require eliminating two or three ongoing or planned studies  
29 so he did not advise adding them to the budget until there are approved study designs. He also  
30 reminded the Board that he had previously advised considering asking the legislature for supplemental  
31 funding for the studies.

32  
33 Board member Davies asked about the potential habitat break (PHB) and validation study and why  
34 funds are not allocated toward it. She asked if the validation work is going forward without a final rule.

35  
36 Hicks noted that prior discussions on the water typing studies included the PHB validation study and  
37 said the most recent update from CMER and the science advisory group does explain some of the  
38 estimates. He said the various study designs associated with water typing, such as the PHB validation  
39 study, are still in development.

40  
41 Hicks said the CMER Work Plan changes were mostly changes to existing projects. Two new studies –  
42 Fire Effects on Eastside RMZs and Coastal Tailed Frog Extensive Status Monitoring – were added to  
43 the work plan, which are not reflected in the MPS.

44  
45 **PUBLIC COMMENT ON 2021-2023 CMER MASTER PROJECT SCHEDULE AND CMER**  
46 **WORK PLAN**

1 Elaine Oneil, WFFA, mentioned the inequity in participation funds for the conservation caucus and  
2 said WFFA in the future will be asking for equal funding for all policy caucuses. She said this has not  
3 occurred given the increase in economic forecast. She said the AMP got lucky for this biennium to get  
4 proviso funds from the legislature, but does not believe that is sustainable. WFFA plans to bring this to  
5 the legislature if equity and parity is not addressed. She said that MPS projects need to align with  
6 performance targets and address all four goals of Forests and Fish. She suggested the Board have a  
7 conversation in the future to ensure studies look at landscape level questions, address the goals of  
8 Forests and Fish, and consider ways to incorporate scientific information developed outside the AMP  
9 process.

10  
11 Ray Entz, Eastside tribal caucus Policy representative, said their memo attached to TFW Policy’s  
12 memo dated May 2021, speaks for itself. He said they share some of WFFA concerns with equality  
13 and parity. He said they would have supported the budget if their recommendations were considered.  
14 He said they had asked that the eastern Washington portion of the Riparian Characteristics and Shade  
15 study be removed. He said the AMP needs to prioritize studies that show us what we *need* to know  
16 over studies that show us what we *want* to know.

17  
18 Darin Cramer, WFPA, said the Board is acting like Policy in respects to the water typing rule  
19 development effort and various studies. He said WFPA wants to ensure that study results come at the  
20 appropriate time and not ahead of the rule making process. He said WFPA voted sideways on the  
21 budget, not necessary in full support. He suggested the process is out of alignment with the  
22 commitments and does not seem to address important commitments to covered species (schedule L1).  
23 He said the Board needs to focus on the science they committed to do and not put policy ahead of the  
24 science.

25  
26 **2021-2023 MASTER PROJECT SCHEDULE AND CMER WORK PLAN**

27 **MOTION:** Carmen Smith moved the Forest Practices Board approve the Master Project Schedule  
28 and associated budget. She also moved to approve the updated CMER work plan.

29  
30 **SECONDED:** Kelly McLain

31  
32 Board Discussion:

33 Chair Bernath suggested a friendly amendment to include approving the CMER Work Plan.

34  
35 Board member Davis asked about the inequalities in participation funds and if that was addressed in  
36 the budget.

37  
38 Chair Bernath said the increase in participation for WFFA and counties is reflected in the budget under  
39 the one-time proviso. He said DNR is open to discussions to rectify these concerns.

40  
41 Board member Nelson said he would support the budget, but said he has concerns with participation  
42 funds and current process of continuing to support the rule making before having the scientific findings  
43 in place.

44  
45 Board members Davis, Davies and Doenges voiced support for the CPeace process and said they were  
46 encouraged to see that DNR is working to make that happen.

47

1 Chair Bernath said there are commitments to have discussions on addressing the disparity with  
2 participation grants.

3  
4 Board member Guenther said he would vote for the motion, but said the Board needs to consider the  
5 comments by the landowners and the tribes.

6  
7 Board member Davies said the conservation caucus has had conversations with the several caucuses  
8 and are in support of helping to bring resolution to the inequalities.

9  
10 **ACTION:** Motion passed unanimously.

### 11 **SMALL FOREST LANDOWNER DEMOGRAPHICS REPORT**

12 Mary McDonald, DNR, said DNR's legislatively required [2021 Small Forest Landowner Demographic](#)  
13 [Report](#) utilized the demographic information, trend analysis and some of the recommendations that the  
14 Board heard from the University of Washington (UW) at the February 2020 meeting. The legislature  
15 requires DNR to provide a demographic report every four years that includes information on acreage  
16 classifications, the number of FPAs and an identification of Watershed Administrative Units having  
17 the majority of small forest ownership lands.

18  
19  
20 She said demographic trends indicate that the total forestland base in Washington declined by about  
21 394,000 acres (2 percent) between 2007 and 2019 and that small forest landowners account for 15% of  
22 forested acres. There was a 3.7% decline in the number small forest landowner acres between 2007 and  
23 2019, but an increase of landowners by 8.5%. The UW survey found that the four highest ranked  
24 aspects of forest ownership were: (1) the value of nature and aesthetics; (2) recreation (non-timber  
25 forest products, and hunting); (3) family and privacy, and (4) income, investment, and passing on to  
26 heirs.

27  
28 McDonald said the top concerns are property taxes, wildfire and nearby development. Landowners  
29 who lack the opportunity of passing their land on to an heir are more likely to convert or sell. The  
30 results show that lands with riparian buffers were not sold more frequently than other small  
31 forestlands. The report's recommendation include:

- 32 • Expand the Designated Forestland taxation rules to ensure eligibility of forestlands are valued and  
33 managed for a range of ownership objectives;
- 34 • Take a stronger role in supporting the existing Transfer of Development Rights;
- 35 • Recognize the value these lands contain for ecosystem services such as carbon sequestration and  
36 climate resiliency;
- 37 • Provide additional funding for stewardship education and regulatory assistance;
- 38 • Provide additional funding for FFFPP and FREP.
- 39 • Recommend the Legislature provide funding to UW to update the small forest landowner  
40 forestland database.

41 The legislature acted on several of these priorities to support small forest landowners including:

- 42 • The development of a small forest landowner work group responsible for research and making  
43 recommendations for landowner opportunities to enter the carbon sequestration market;
- 44 • \$2 million for regulatory technical assistance; \$5.9 million for FFFPP; \$5.7 million for FREP, and
- 45 • House Bill 1168 called for an integrated small landowner forest health program.



1 Board member Davis asked for clarification regarding the numbers indicating that most forest  
2 landowners are not managing their land for timber, but do so for other uses. He asked if the data  
3 indicates where the small acreage versus large acreage owners live.  
4

5 McDonald acknowledged that the majority of those active in the forest practices arena are into timber  
6 investment and many owning under 20 acres may never submit an FPA. She said there is a need to  
7 connect like-minded landowners to ensure there are partnerships and incentive opportunities. The  
8 report does indicate where smaller acreage owners are on the landscape at the watershed administrative  
9 unit level.  
10

11 Board member Serr said counties provide long-term forest protections in designated forest resources  
12 land classifications. He said it would be helpful to know the reasoning for those electing not to be in  
13 designated in land.  
14

15 McDonald agreed and said the UW report found that the majority the small forest landowners who  
16 enroll their land in a forest tax base are less likely to convert their forest land to another use.  
17

18 Chair Bernath said DNR would investigate the feasibility of providing a map showing small versus  
19 large-based ownership in addition to land designation for taxing purposes.  
20

## 21 **GENERAL PUBLIC COMMENT**

22 Adrian Miller, Rayonier, said the structure of the AMP provides an opportunity for all interested  
23 stakeholders to participate directly in the program. No other regulatory system that he is aware of  
24 provides this degree of access to decision making by all affected stakeholders. He said the process by  
25 design forces compromise to move forward solutions that are durable. The issues currently before the  
26 AMP are important, but they represent the outer margins of environmental risk. He emphasized that it  
27 is in everyone's interest to stick to the process established by Forests and Fish – to deviate from the  
28 established process is illegal and will be challenged by any party disenfranchised by that action.  
29

30 Ken Miller, WFFA, reminded the Board they accepted their science and rule supported low-impact  
31 template proposal in February 2015 for review by the AMP and to report back with recommendations  
32 in the fall of 2015. He said Stage 2 of the dispute resolution process was completed on the core RMZ  
33 widths only with little to no progress towards consensus. He said although their science has gone  
34 through several outside reviews, they are still awaiting another review from CMER regarding their  
35 take on the standard six questions requested by Policy last July. He said WFFA continue to hope the  
36 CMER report will be forth coming, but they are also struggling and now going through their own  
37 dispute resolution process. He said he does not expect Policy to bring forth the Board's requested  
38 recommendations until the November 2021 meeting.  
39

40 Elaine Oneil, WFFA, said she believes the CPeace training showed dividends and said it was a  
41 pity that more folks were not able to avail themselves to the training before dispute resolution.  
42 She is hopeful future disputes will have better outcomes after these trainings are complete.  
43 She said that a commitment to the goals of Forest and Fish needs to occur at the principal's  
44 level. She urged the principals, and those that work closely with their principals, to empower  
45 the people sitting at the table to make a deal or the whole system is likely to grind to a  
46 complete halt. She said UW was consistent with the charge of SB5330 in a limited time  
47 window, but they recognize that more could be done to parse the data to get at the nuances of  
48 impacts of small forest landowners since those managing their lands are impacted by the

1 Forest Practices rules. She said the use of outside data and scientific findings should be  
2 encouraged.

3  
4 Peter Goldman, Conservation Caucus, said they are disappointed with the decision to not to file a CR-  
5 101, which provides notice that the Board is considering modifying the Type N rule. He said the Board  
6 did not do so because of opposition by some caucuses that a CR-101 is not appropriate until a rule  
7 proposal is developed. He said this is inaccurate for two reasons: (1) The [Department of Ecology's](#)  
8 [\(Ecology\) memo dated April 26, 2021](#), stated that Ecology interprets RCW 76.09.370 (6) as requiring  
9 the Board to implement the science as it develops and to make discernible progress on the Type Np  
10 rule by November and, (2) a CR-101 does not bind anyone, nor prevents Policy from developing a  
11 possible rule. He said given that Ecology has requested specific dates for the filing of CR-101 and 102,  
12 there is no reason why the approval for a CR-101 was withdrawn. He said there are serious  
13 implications if the Board does not issue a CR-102 by the end of November since he does not believe  
14 Ecology can extend the Clean Water Act (CWA) assurances. He suggested the Board schedule a  
15 special meeting between now and August to consider approving a CR-101 on Type Np.

16  
17 Kevin Godbout, Weyerhaeuser, said there is a plan in place for amending the water typing rules based  
18 on recommendations brought to the Board by Policy. He said it is moving forward and the Board needs  
19 to recognize that the folks working on all these different work groups have had to work through the  
20 pandemic related issues like everybody else and if there is some slippage – so be it. He said reports are  
21 forth coming and there is no great sense of urgency relative to public resources. The process the Board  
22 should follow in trying to adopt administrative substitutions needs to go through the adaptive  
23 management process. He said it is premature to initiate a CR-101, as that would limit a variety of other  
24 options that can be identified as changes to resource objectives. He said for the regulated community  
25 and individuals having the ability to participate in the Board process, it is important that folks have  
26 adequate notice and meeting material in advance to prepare for these meetings.

27  
28 Ray Entz, Eastside tribal caucus representative, said he was not very excited about the lack of  
29 discussion around their legitimate concerns on the MPS and budget that occurred earlier in the day. He  
30 said he has tried to participate in this program consistent with the goals and objectives of TFW  
31 Agreement and the Forests and Fish Report, but not all stakeholders are created equal and thus the  
32 ideal like goals and aspirations of this program are simply failing. He said the eastside tribes have  
33 provided honest interpretation of the issues and have provided solutions, but have repeatedly been  
34 ignored. He said he is weary – it does not seem to be a very balanced or a fair process. He said he  
35 believes that based on Francine Madden's presentation earlier in the day, it seems less likely that the  
36 principals will ever meet, let alone have the opportunity to provide additional solutions to some of the  
37 program's weaknesses.

38  
39 Darin Cramer, WFPA, said given the upheaval that has occurred in the last year and a half – both  
40 personally and professionally – communication is more difficult, transparency is not where it should be  
41 and collaboration has taken a hit. He said the CWA update lacked acknowledgement of what has been  
42 happening over the last year and a half and noted that approximately 80% of the milestones are  
43 complete or underway. Regarding the Np rule making, he said leadership-level conversation and  
44 understanding needs to occur to get back on track. He said there has been strong positioning on this  
45 topic for a couple of years and it should not work that way. Folks need to take a deliberate approach,  
46 be thoughtful and collaborative and focus on changing our practices when there is an overwhelming  
47 need to do so in order to contribute positively to the goals of Forests and Fish. He suggested that

1 changes need to be consistent with the scope and scale of the problem rather than apply site-specific  
2 results at a landscape level.

3  
4 Jim Peters, Northwest Indian Fisheries Commission, said that during the successful days of TFW and  
5 at the beginning of Forests and Fish, their principals were involved and kept the tribes accountable and  
6 to stay within their lane. He said getting the principals involved will help and that trust is needed at all  
7 levels to support a timber industry and protect listed fish species. He suggested that the CPeace process  
8 needs to be a series of meetings for people to get to know each other. He said everyone should work to  
9 educate legislators and the State Auditor's office on the value of and process in TFW and the AMP. He  
10 said the western Washington tribes are committed to help resolve these outstanding issues.

11  
12 Alec Brown, Washington Environmental Council, said one of the top levels of Forest and Fish was to  
13 comply with the CWA. He said folks need to remember that meeting the states' water quality standards  
14 in the forest landscape is just as important as all of the other objectives within the adaptive  
15 management system. He said stakeholders need to have trust that all of the objectives can be met. He  
16 said it was disappointing to see that the Board's work plan is an indication that the Board will not be  
17 meeting the deadline for a Type Np rule as outlined in Ecology's December 2019 letter. He concluded  
18 by inviting all stakeholder at all levels of the AMP to begin a serious effort to work together on the  
19 issues at hand for meeting the standards of the CWA and the goals of Forests and Fish.

#### 20 21 **CLEAN WATER ACT MILESTONE UPDATE**

22 Brandon Austin, Ecology, said the CWA corrective milestones were put into place after Ecology  
23 conducted a review of the AMP in 2009. He said Ecology determined at that time that the AMP was  
24 not meeting expectations for demonstrating that the rules were protecting water quality as outlined in  
25 the Forests and Fish law and the Habitat Conservation Plan (HCP) for maintaining the Assurances.

26  
27 Austin said the Assurances convey that if following the Forest Practices Rules, landowners are  
28 considered to be meeting the water quality standards and the CWA. He said the milestones were  
29 established as a way to track progress and included studies to determine if the rules are achieving  
30 compliance with water quality standards. Ecology committed to provide annual progress reports to the  
31 Board, including finished studies and met milestones. He said Ecology will continue to provide  
32 updates to the Board as long as there are milestones being worked on or until a different method is in  
33 place for tracking progress. He added that in December 2019, Ecology extended the milestones for a  
34 two-year period in part because science had identified needs accepted by Policy and approved by the  
35 Board as needing action, and that was considered a signal that the process is working.

36  
37 Board member Davies asked what role the Environmental Protection Act (EPA) has.

38  
39 Austin said that EPA has delegated oversight of CWA to state agencies and tribes in their jurisdictions  
40 – Ecology being the state agency for Washington. Ecology maintains communication with EPA and  
41 consults with them on various issues. EPA is aware of the process and interested in the progress the  
42 AMP makes, but does not have a direct role.

43  
44 Board member Doenges said EPA staff work with Ecology and watch the TFW process. He said there  
45 is delegated authority to Ecology from the EPA under the CWA, and the ability of Ecology to meet  
46 CWA requirements is assessed by EPA on a regular basis.

1 Board member Davies said she is concerned about the timeline and slow progress. She asked what the  
2 consequences of losing the CWA assurances might be.

3  
4 Board member Doenges said he not sure what would happen if the assurances were not extended and  
5 that Ecology has not formally considered what losing the assurances would mean. He said that without  
6 the assurances, the control over what happens in Forest Practices would shift from the department and  
7 the Board to outside parties. Without the assurances, the ability of the AMP to assertively state that  
8 they are meeting CWA water quality standards and the impact that would have on the integrity of the  
9 HCP effort would be called into question and invite litigation.

10  
11 **TYPE NP BUFFER WORK GROUP UPDATE**

12 Meghan Tuttle and Marc Engel, Policy Co-chairs, presented an update on the status of completion for  
13 the Type Np work group report. Tuttle mentioned that the Policy work to develop recommendations  
14 for the Board is directed by the process of the AMP outlined in WAC 222-12-045. Engel said they  
15 anticipate that the Type Np report will be completed in June 2021, but that Policy has not discussed the  
16 process timeline for the development of recommendations to bring to the Board.

17  
18 Engel described the timeline Policy will follow to develop recommendations for the Board as outlined  
19 in Board Manual Section 22. He said the timeline outlines a 180-day process from when Policy gets a  
20 final report until they will bring recommendations to the Board. He also stated that if Policy is unable  
21 to agree on any recommendations that any Policy caucus representative may invoke dispute resolution.  
22 He said that a single dispute resolution process would add a minimum of six months to develop a  
23 minority/majority report for the Board. If that occurs, any recommendation will not be ready until  
24 2022.

25  
26 The Policy recommendations to the Board may include: (1) specific Policy recommendations; (2) a  
27 review of other CMER reports, Policy products, and/or the AMPA report of potential implications to  
28 the rules; (3) a review of other scientific peer review reports; (4) draft rule language; and, if needed (5)  
29 minority/majority reports on issues lacking consensus. He again stated that the presentation presented a  
30 potential timeline based on Board Manual guidance and reminded the Board that the Policy had not yet  
31 received the final Np report.

32  
33 Board member Nelson asked about the timing for the development of the environmental and  
34 cost/benefit analysis (CBA).

35  
36 Engel said upon Board action on Policy's recommendations, the Board would request DNR to prepare  
37 a complete rule packet. The rule packet would include the CBA and environmental impact assessment  
38 before the filing a CR-102 that would initiate the formal rulemaking process.

39  
40 Board member Doenges asked if the timeline was reflective of DNR's decision not to put the Type Np  
41 CR-101 up for vote before the Board. He asked if DNR would enlist a facilitator to help in  
42 recommendations under dispute resolution.

43  
44 Tuttle said if the Board moves forward with a CR-101 before Policy finishes its process outlined in  
45 rule, it may appear to some caucuses that the Board was attempting to influence Policy's decision-  
46 making process. She said Policy co-chairs could bring in facilitators to help in dispute resolution.

47

1 Board member Davies asked if the timeline is actually needed since it seems to extend the process to  
2 complete a Type Np rule making.

3  
4 Engel said that since Policy had not received the final Type Np report, the Policy co-chairs are simply  
5 presenting the process as outlined in Board Manual Section 22. He said Policy will provide status  
6 reports on the development of recommendation and the timing at each board meeting.

7  
8 Tuttle said part of the reason to present a timeline is to provide for transparency and to meet the Open  
9 Public Meetings Act.

#### 10 11 **TYPE NP RULE MAKING UPDATE**

12 Chair Bernath provided an update on the Type Np buffer rulemaking effort. He said the Board intends  
13 to address Type Np issue and conduct future rule making, and that Ecology is looking to the Board to  
14 make a good faith progress to maintain CWA assurances. He acknowledged that this topic invokes  
15 strong feelings among different caucuses and the public that need to be addressed. Commissioner  
16 Franz is a strong believer in collaboration for reaching optimal outcomes by working together in order  
17 to solve tough problems. He added that DNR would determine next steps and address this topic in the  
18 future.

19  
20 Board member Doenges said he was disappointed that the Type Np rule making topic was dropped  
21 from the agenda. He believes it puts the department and the Board in a position where they aren't  
22 making good faith efforts to meet the CWA assurances. He asked if the Np buffer CR-101 would be on  
23 the August 2021 agenda.

24  
25 Chair Bernath said there was miscommunication between himself and Commissioner Franz regarding  
26 this topic and said there is no commitment to have it on the August 2021 agenda.

27  
28 Board member Herrera said he is concerned that the Board may not meet Ecology's request to initiate  
29 a Type Np rule making. He said this shows doubt that DNR will meet the CWA Assurances. If  
30 Ecology loses the ability to oversee the assurances, he said the tribes may need to work with EPA to  
31 ensure CWA Assurances are maintained.

32  
33 Board member Davies suggested the Board have a conversation about in initiating the CR-101 in  
34 August 2021.

35  
36 Board member Nelson said the CR-101 is not the only option to fulfill Ecology's direction. He  
37 acknowledged that the Board is not going to meet the timing included in Ecology's letter anyway and  
38 suggested asking Ecology to revise the timeline.

39  
40 Board member Serr suggested the Board take action to respond to Ecology if the Board will not be  
41 meeting Ecology's timeline.

42  
43 Chair Bernath will report back at the next meeting with an update.

#### 44 45 **WATER TYPING COMMITTEE UPDATE**

46 Chair Bernath introduced the topic by restating that the Board has initiated the water typing system  
47 rulemaking process to reduce the use of electrofishing and reduce the degree of subjectivity in  
48 establishing the break between fish habitat and non-fish habitat to provide more certainty that fish

1 habitat is being protected.

2  
3 Marc Engel, DNR and Bob Guenther, Water Typing Committee (Committee) Chair, provided an  
4 update on the status of the Committee’s work for evaluating additional fish data needed to conduct the  
5 PHB spatial analysis in eastern Washington and the work by the anadromous fish floor (AFF) project  
6 team to develop the anadromous floor. The Committee held one meeting in April prior to the May  
7 Board meeting.

8  
9 Engel said the AFF workgroup is continuing to identify data to inform the Webmap and to refine  
10 barrier and stream length. They are still assessing the definition of natural fish barriers along with  
11 determining the appropriate stream reach for identifying the AFF. He said the workgroup provided a  
12 recommendation to address confusion regarding the interpretation of the industrial landowner AFF  
13 proposal. The Committee concurred with the AFF workgroup’s recommendation and requested the  
14 group analyze all four of the alternatives outlined in the [workgroup’s April 14, 2021 memo](#).

15  
16 Engel said the Committee acknowledged that the process to match the screened 2001 CMER data  
17 subset with the georeferenced data and the Qa/Qc evaluation for the Kalispel and Yakama tribal data is  
18 complete. This added approximately 176 points from the CMER data subset, 23 points from the  
19 Yakama Nation and 28 points Kalispel Tribe to the existing 18 fish data points (which was identified  
20 in 2019) to perform the eastern Washington PHB spatial analysis. He said there was expressed concern  
21 with using a subset of the complete CMER dataset. A three-to-one Committee vote did finalize the  
22 ability for DNR to use the data as presented to the Committee on April 28, 2021 for inclusion in the  
23 PHB spatial analysis.

24  
25 Committee Chair Guenther acknowledged the importance to save the older data, which was  
26 demonstrated by DNR being able to utilize the 2001 CMER georeferenced data to begin the analysis.

27  
28 Committee member Nelson said he voted against using a subset because he believed screening data  
29 would bring bias into the results. He said any new rule needs to be evaluated against the current rule  
30 and is said he was frustrated that the CBA has not occurred to date.

31  
32 **EASTSIDE MODELING EVALUATION PROJECT (EMEP)**

33 Mark Hicks, AMPA, and Kai Ross, Cramer Fish Sciences, presented the findings of the Eastside  
34 Modeling Evaluation Project (EMEP). He said the purpose was to answer five questions:

- 35
- 36 • How stand characteristics change over time with/without harvest under the rule;
  - 37 • What extent do the current riparian stands meet the size and basal area thresholds for harvest across  
38 regulatory habitat types (elevation bands);
  - 39 • Are there differences in stand characteristics associated with distance to the stream;
  - 40 • What are the projected rates of stand mortality in riparian stands with/without management, and
  - 41 • How susceptible to insect, disease and crown fire are stands and how does that change over time

42 Ross said the purpose was to use forest vegetation simulation to simulate harvests under eastside  
43 riparian prescriptions, evaluate stand metrics as well as insect and fire risk and compare between  
44 managed and no action alternatives. The Eastern Washington Riparian Assessment Project (EWRAP)  
45 data helped in the evaluation along with bull trout overlay and shade information. The study uses forest  
46 stand conditions from three habitat types – 42 ponderosa pine sites, 56 mixed conifer sites and two  
47 high elevation sites. The sites ranged from 40 – 120 years old, with a higher proportion of young  
48 stands in ponderosa pine.

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The study’s conclusions included:

- As riparian zone growth was simulated with FVS for 50-years with and without management, tree size and stand density increased along with some increases in insect and disease susceptibility and potential fire severity without management, and decreases with management;
- Across the EWRAP sites, many inner RMZs were not eligible for harvest primarily because they were located within the Bull Trout Overlay (BTO) or lacked sufficient shade to allow management treatments, which was consistent throughout management simulations;
- When inner zones could be managed, either thinning throughout the zone or only thinning the outer 25 feet along larger streams in the BTO or where shade was deficient, management with available prescriptions had minimal effects on tree growth and minimal reductions in insect and disease susceptibility, and
- Management in outer zones, which removed more trees, increased tree growth and reduced insect and disease susceptibility and potential wildfire severity.

Board member Nelson asked if there are plans to expand this study specific to mortality factors related to shade modeling.

Ross agreed that additional components could be incorporated into this study.

Hicks said Policy discussed the merits of the findings at their March 2021 meeting. As a result, Policy agreed to recommend that the Board take no formal action on the results of this study.

**PUBLIC COMMENT ON EMEP**

Ken Miller, WFFA, said he hopes that small forest landowners are more equipped with implementable prescriptions to manage overstocked stands and excesses of fire prone species. He said a ‘no touch’ approach is not a viable option to maintain eastside RMZs.

Darin Cramer, WFFA, stated that although Policy recommended not to take formal action, Policy did agree to form a science group to continue discussion and help resolve outstanding questions related to this study.

**EMEP**

**MOTION:** Tom Nelson moved the Forest Practices Board approve the TFW Policy Committee recommendation to take no formal action based on the findings of the Eastside Modeling Evaluation Project. I also move to look for additional opportunities to enhance the completed work.

**SECONDED:** Bob Guenther

Discussion:  
None.

**ACTION:** Motion passed unanimously.

**EVALUATION OF THE NORTH BLEWETT SOSEA**

Mary McDonald, DNR, said that the Board requested at the May 2020 meeting an assessment of successes toward achieving the goals of the North Blewett Spotted Owl Special Emphasis Area

1 (SOSEA). They have completed their assessment, [Assessment for North Blewett Spotted Owl Special](#)  
2 [Emphasis Area](#), which focused on how well DNR has implemented the Forest Practices rules  
3 pertaining to NSO habitat and Class IV-Special applications related to threatened and endangered  
4 species. She said they considered but did not assess rules regarding voluntary provisions for  
5 landowners because there are no Landowner Option Plans and Cooperative Habitat Enhancement  
6 Agreements within this SOSEA.

7  
8 McDonald said that when an FPA or proposal comes in to DNR, reviewers determine if it is located  
9 within a NSO site center and then discern the different habitat types in the site center. She said  
10 reviewers then determine if the proposal fits exemptions in rules for small forest landowners regarding  
11 the definition of critical habitat.

12  
13 McDonald said that if a forested area within a proposal does not meet critical habitat definition, a  
14 landowner can propose to have the area looked at if they provide certain information for consideration.  
15 The review process includes:

- 16 • Landowner initiates a habitat review and provides information about the forest stand;
- 17 • DNR convenes an inter-disciplinary team meeting consisting of subject matter experts – in this  
18 case WDFW – and looks at the specific area to determine if it meets the Rule definition of NSO  
19 habitat, and
- 20 • DNR then makes a determination of disapproval or approval of the application.

21  
22 Shane Early, DNR, said from 2010 to 2020, DNR identified 48 FPAs associated with the North  
23 Blewett SOSEA and evaluated the documentation used to classify each FPA within the SOSEA related  
24 to NSO sites and habitat. All 48 FPAs were originally processed as Class III applications and there  
25 were no criteria or issues that obligated a review under SEPA. He said of those 48 FPAs, six were  
26 submitted by small forest landowners who owned less than 500 acres within the SOSEA and that the  
27 proposed activities were located outside the 0.7-mile core circle, which exempted those proposals from  
28 SEPA. Of the remaining 42 FPAs, 17 were not within an owl circle, leaving 25 FPAs within an owl  
29 circle within the SOSEA.

30  
31 Of those 25 FPAs, they noted that 20 had a voluntary pre-application review and two FPAs had some  
32 areas of NSO habitat confirmed during those site visits. The landowner revised the harvest units within  
33 habitat by excluding the areas of confirmed NSO habitat prior to submission of the FPA for official  
34 review. Early added that all 25 FPAs were field-reviewed either during a pre-application review or  
35 during the 30-day review period allowed prior to the FPA decision.

36  
37 Joe Buchanan, WDFW, said the Board convened the Northern Spotted Owl Implementation Team  
38 (NSOIT) several years ago to develop an incentives program. The implementation team was  
39 responsible for three components:

- 40 • Develop different types of incentive programs for habitat for NSO;
- 41 • Provide oversight to develop a programmatic safe harbor agreement (SHA) that DNR would  
42 manage and landowners could use within the range of NSO, and
- 43 • Conduct modeling to identify strategic areas where conservation would provide greatest benefit to  
44 NSO.

45  
46 Buchanan said DNR and WDFW have secured funding for work on the SHA and a report to the  
47 legislature is due by December 2021 on resources needed as related to rule making and rule  
48 implementation. He said the modeling work is underway and with previously done modeling, there is



1 an opportunity to fine-tune the work to add value between different scenarios. The work should be  
2 completed within the next few months.

3  
4 Board member Davis said he is thankful to the review team members for the completion of the work  
5 and appreciates the landowners for coming forward and working with the agencies to assess the  
6 vegetation on their land.

7  
8 **STAFF REPORTS**

9 There were no questions on the following reports.

- 10 • Adaptive Management Program Update  
11 • Small Forest Landowner Office Update  
12 • TFW Policy Committee Update  
13 • Upland Wildlife Update  
14 • Potential Habitat Break Study Design Update

15  
16 **2021 WORK PLAN**

17 Marc Engel, DNR, presented the Board’s 2021 work plan for changes. Changes included adding the  
18 performance audit work plan items and legislative reports that are due in 2021 and 2022 and adding  
19 Board Manual Section 12 and 22 work to begin this year. The Type Np rule making timing was  
20 changed to ‘to be determined’.

21  
22 **MOTION:** Tom Nelson moved the Forest Practices Board accept the 2021 work plan as amended  
23 during the May 12, 2021 meeting.

24  
25 **SECONDED:** Jeff Davis

26  
27 Board Discussion:

28 Board member Doenges said he is concerned the timeline for the Type Np rule reflects the Board’s  
29 intent not to meet Ecology’s timeline. He said he would vote against the motion.

30  
31 **ACTION:** Motion passed. (9 support / 1 oppose (Doenges)).

32  
33 **EXECUTIVE SESSION**

34 None.

35  
36 Meeting adjourned at 4:30 p.m.

37